IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3494 of 2000
to
FIRST APPEAL No 3497 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD MUNICIPAL CORPN

Versus

VIMAL R AMBANI

Appearance:

MR KIRIT I PATEL with Ms.Amita Shah for Appellant

MR RN SHAH for Respondent

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE J.R.VORA

Date of decision: 20/02/2001

ORAL JUDGEMENT (Per : MR.JUSTICE M.R.CALLA)

1. These Appeals were admitted by a common order separately passed along with other cognate matters. These First Appeals u/s 411 of the Bombay Provincial Municipal Corporation Act, 1949, are directed against the orders dated 11.02.2000 passed in Municipal Valuation Appeal No.545 of 1997 for the year 1996-97 in respect of the premises bearing Survey No. 154 + 159/7 FF of Ellisbridge A/2 Ward for the year 1996-97, order dated 11.02.2000 passed in Municipal Valuation Appeal No. 546 of 1997 in respect of the premises bearing Survey No. 154 + 159/7 FF of Ellisbridge A/2 Ward for the year 1996-97, order dated 11.02.2000 passed in Municipal Valuation Appeal No. 547 of 1999 in respect of the premises bearing Survey No. 154+159/7/SF of Ellisbridge Ward No. A/2 for the year 1996-97 and Order dated 11.02.2000 passed in Municipal Valuation Appeal No. 549 of 1997 in respect of the premises bearing Survey No. 154 + 159/7 FF of Ellisbridge A/2 Ward for the year 1996-97 by the Small Causes Court No.5 at Ahmedabad respectively.

2. Four Appeals had been filed before the Small Causes Cour, Ahmedabad, by the owners of the premises challenging the GRV fixed by the Municipal Corporation for the year 1996-97. The Small Causes Court took into consideration the valuation report as was produced but the author of the valuation report was not examined. At the very threshold of the argument Mr. R.N. Shah, learned counsel for the respondent herein in all these four matters submitted that since the author of the valuation report was not examined and the Municipal Corporation did not get an opportunity to cross-examine the author, the respondent herein is ready to produce the author of the valuation report for examination and the Municipal Corporation may cross-examine such valuer. Since the matters are required to be remanded on this ground alone, we do not find it necessary to deal with other points raised in these Appeals and all other points will be open to be raised in future proceedings, if necessary. We accordingly, set aside the orders passed in the Municipal Valuation Appeals on 11th February, 2000 by the Small Causes Court No.5, Ahmedabad and remand the matters to the Small Causes Court No.5, Ahmedabad for deciding these Appeals afresh after examining the author of the valuation report which was relied upon and the Municipal Corporation shall be afforded an opportunity to cross-examine such valuer. It will also be open for the Municipal Corporation to make a proper application before the Small Causes Court u/s 409 of the Bombay Provincial

Municipal Corporation Act, 1949 for examining the expert valuer and in case such application is accepted and the court finds it necessary, it may order accordingly and decide the matters afresh thereafter. Accordingly, the impugned order dated 11.2.2000 passed in each of the 4 Municipal Valuation Appeals are hereby set aside and the matters are remanded back for decision afresh in accordance with law as indicated above. All these four Appeals are partly allowed as above with no order as to costs.

3. It is expected that the Small Causes Court shall give priority in deciding these four remanded Appeals and shall decide the same preferably within a period of six months from the date the certified copy of this order is produced before the Court by either of the parties. It may be mentioned that the appellant Municipal

Corporation is under an obligation to make the payment of costs, if any, awarded by this Court at the time of condoning the delay in filing these Appeals, before the matters are heard in the remanded proceedings.

(M.R. Calla, J.)

(J.R. Vora, J.)

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